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Kenneth Austin

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

08/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/762,740

Applicant(s)

AUSTIN, KENNETH

Examiner

Dominic D. Saltarelli

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-167 is/are pending in the application.
- 4a) Of the above claim(s) 70-139, 166 and 167 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 140-165 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Claims 70-139 and 166-167 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected groups, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in the reply filed on March 29, 2006.
2. Applicant's election with traverse of Group V in the reply filed on March 29, 2006 is acknowledged. The traversal is on the grounds that each group share the common inventive concept of performing operations based on video images and related data. This is not found persuasive because the concept of performing operations based on video images and related data can in no way be considered 'inventive' in any sense, as it is far to broad an assertion, and encompasses the whole of video based technology.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 140-146, 149-163, and 165 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al. (6,698,020) [Zigmond].

Regarding claim 140, Zigmond discloses a system for the display of targeted commercials on a television receiver comprising means (60) for receiving commercials, means (60) for selecting from said commercials and means (61) for displaying selected commercials (fig. 3, col. 4, lines 5-14).

Regarding claim 141, Zigmond discloses the system of claim 140, and further discloses means for accepting input commands from a viewer (fig. 8, input device 150).

Regarding claim 142, Zigmond discloses the system of claim 140, wherein said means for receiving commercials operates while the television display is not in use (using a download scheme that is not dependent upon the display device being in use, col. 14 line 66 - col. 15 line 16).

Regarding claim 143, Zigmond discloses the system of claim 140, and further discloses means for automatically replacing broadcast commercials with commercials stored locally in a memory means (col. 8, lines 30-54).

Regarding claim 144, Zigmond discloses the system of claim 140, and further discloses means for enabling a user to indicate a response to the

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commercial while said commercial is being viewed (col. 9, lines 21-55, fig. 6, step 118 and col. 16 line 65 - col. 17 line 11).

Regarding claim 145, Zigmond disclose the system of claim 140, wherein the commercials are banner advertisements (col. 9, lines 8-19).

Regarding claim 146, Zigmond discloses the system of claim 140, wherein the commercials are selectively displayed by the user electing to view said commercials (col. 16 line 65 - col. 17 line 11).

Regarding claim 149, Zigmond discloses the system of claim 140, wherein the means for selecting from said commercials utilizes customer specific data sent by a broadcaster (col. 11, lines 31-49).

Regarding claim 150, Zigmond discloses the system of claim 140, and further disclose means for storing a plurality of commercials to ensure that a commercial is seen (fig. 5, advertisement repository 86).

Regarding claim 151, Zigmond discloses the system of claim 140, wherein the means for displaying selected commercials utilizes preferences of a user (col. 13, lines 7-28).

Regarding claim 152, Zigmond discloses the system of claim 140, wherein the means for displaying selected commercials utilizes preferences of a user (col. 13, lines 7-28) and current selections in an electronic program guide (col. 10 line 64 - col. 11 line 12).

Regarding claim 153, Zigmond discloses the system of claim 140, wherein the means for displaying selected commercials utilizes preferences of a user (col. 13, lines 7-28) and a television program currently being viewed (col. 10 line 64 - col. 11 line 12).

Regarding claim 154, Zigmond discloses the system of claim 140, wherein the means for displaying selected commercials utilizes preferences of a user (col. 13, lines 7-28) and a time of day (col. 13, lines 59-67) and selections made in an electronic program guide (col. 10 line 64 - col. 11 line 12).

Regarding claim 155, Zigmond discloses the system of claim 140, and further discloses a monitor for monitoring responses of a viewer to commercials (col. 9, lines 21-55 and fig. 6, monitor 118) and means for generating a representative statistical code word (the code words are those specific topics, categories, genres, and demographics used to classify both programming and viewers in order to select advertisements based on programming and who's watching, col. 10 line 48 - col. 11 line 30).

Regarding claim 156, Zigmond discloses the system of claim 140, and further discloses a monitor for monitoring viewing habits of a viewer (col. 10, lines 35-47 and col. 11, lines 13-30) and means for generating a representative statistical code word (the code words are those specific topics, categories, genres, and demographics used to classify both programming and viewers in order to select advertisements based on programming and who's watching, col. 10 line 48 - col. 11 line 30).

Regarding claim 157, Zigmond discloses the system of claim 140, wherein the means for selecting from said commercials utilizes data coded into a representative code word (col. 12, lines 15-24 and col. 12 line 44 - col. 13 line 28).

Regarding claim 158, Zigmond discloses the system of claim 157 wherein the representative code word is selectively displayed on a television screen (the 'code word' is an identifying feature of an advertisement, col. 12, lines 15-24, and this 'code word' is displayed on screen when a user is specifying their interest in identifying features of ads either in the form of a questionnaire, col. 10, lines 35-47 or through explicit modification by a viewer of ad selection criteria, col. 14, lines 25-35).

Regarding claim 159, Zigmond discloses the system of claim 145, wherein the banner advertisements are digitally transmitted (col. 14 line 66 - col. 15 line 16).

Regarding claim 160, Zigmond discloses the system of claim 145 wherein the banner advertisements are transmitted en-block (col. 16, lines 44-56) and means are provided to retrieve and display the banner advertisement that falls into a user selected category (col. 14, lines 25-35).

Regarding claim 161, Zigmond discloses the system of claim 145, wherein said transmitted banner advertisements are stored in a memory and said retrieval and display means selects an advertisement for display from the stored advertisements (fig. 5, advertisement repository 86, col. 15, lines 45-65).

Regarding claim 162, Zigmond discloses the system of claim 161, wherein the banner advertisements falling into a user selected category (col. 14, lines 25-35) are stored in the memory (col. 15, lines 17-23).

Regarding claim 163, Zigmond discloses the system of claim 140, and further discloses means for storing a plurality of commercials as digital representations (fig. 5, advertisement repository 86), means for converting said

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digital representations into a television signal and means for displaying said commercials (col. 7, lines 26-49).

Regarding claim 165, Zigmond discloses the system of claim 140, further comprising means for connecting to a further source of information (fig. 8).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 147 and 148 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond.

Regarding claims 147 and 148, Zigmond discloses the system of claim 140, but fails to disclose the receipt of said commercials prompts a message to be displayed or an audible sound to be heard.

Examiner takes official notice that it is well known in the art to provide confirmation messages, either visual or audio in nature, to indicate that data downloads to a computer system have completed, giving users an indication that the data in question is fully received and ready for use.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Zigmond to include providing confirmation

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messages, either visual or audio in nature, to indicate that data downloads to a computer system have completed, giving users an indication that the data in question is fully received and ready for use.

7. Claim 164 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Brown (5,805,154).

Regarding claim 164, Zigmond discloses the system of claim 140, but fails to disclose means for selecting an extended version of a commercial.

In an analogous art, Brown teaches providing commercials that include means for selecting an extended version of said commercials, for the benefit of accessing addition information that may be desired by a user upon request (col. 5, lines 20-48).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Zigmond to include means for selecting an extended version of a commercial, as taught by Brown, for the benefit of accessing addition information that may be desired by a user upon request.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER